

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Günter BAUR ET AL.

Serial No.: 08/627,386

Filed: April 4, 1996

For: ELECTROOPTICAL LIQUID CRYSTAL SWITCHING ELEMENT



Group Art Unit: 2515

Examiner: H. Miller

Team 2

#23
Response
F. JONES
3-13-01

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RESPONSE

Commissioner of Patents
Washington, D.C. 20231

SIR:

The following is responsive to the office action of December 19, 2000.

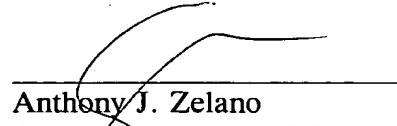
REMARKS

The examiner raises double patenting issues with respect to USP 5,841,499 and USP 5,841,498. Any such rejection has already been rendered moot by the terminal disclaimer filed on June 4, 1999. This terminal disclaimer referred explicitly to both U.S. patents.

There is nothing indefinite concerning claims 86 and 87 which are not "omnibus claims". These claims do not refer in an all encompassing way to the specification, the examples or the figures. Rather, they definitively refer to specific figures with respect to how certain precise comparisons are to be accomplished. This is fully consistent with Federal Circuit case law, e.g., as in *Andrew v. Gabriel*, 6 USPQ2d 2010 (Fed. Cir. 1988) where expressions such as "approach each other," and "closely approximate," were held not to be indefinite in defining components of certain device claims. In the field of this invention, the expressions in claims 86 and 87 are also fully definite. Moreover, note claims 83 and 89 of

the '498 patent and claims 64 and 68 of the '499 patent which have substantially the same language. Thus, the PTO has already correctly determined that this language does not create any indefiniteness.

Respectfully submitted,



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